THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20914 OF 2005

DATED:23.9.2005

Between:

Nilofer Ahmed

…Petitioner

And

The Municipal Corporation of Hyderabad

Rep. by its Commissioner, having its Office

At MCH Complex, Tank Bund, Hyderabad

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20914 OF 2005

ORDER:

The petitioner is allegedly owner of premises bearing No.8-2-120/86/6, Plot No.11, Road No.2, Banjara Hills, Hyderabad. The respondent sent a letter to the petitioner on 10.9.2005 informing that in connection with the road widening of the road from Nagarjuna Junction to K.B.R.Junction to 100 feet wide an extent of 121.5 Sq.yards of petitioner's property will be affected, and requested the petitioner to extend cooperation in handing over advance possession. The petitioner is not willing to give consent and apprehending that the respondent might forcibly dispossess the petitioner duly demolishing the structures, present Writ Petition is filed.

Municipal Corporation of Hyderabad (MCH) sought consent of the owner for

advance possession in larger public interest. It does not, however, mean that in the event of owner of the property not willing to give consent the respondent MCH would resort to high-handed action. In such case, the MCH has to necessarily resort to provisions of Section 147 of the Hyderabad Municipal Corporation Act, 1955 (for short, the Act). In **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** while dealing with similar matter, this Court made the following observations.

> A reading of the said letter does not in any way indicate that there is any truth in the submission made by the learned Counsel for the petitioners. What was sought to by issuing such letter is, a request was made to the landlords to give consent to handover advanced possession in the larger public interest. It was clearly informed that MCH will pay compensation to the effected structures as per the Rules and extent all benefits as per the Rules. If landlord desires to avail the benefits to be extended by the MCH on his own volition the landlord may give consent. If the landlord is not willing the letter nowhere compels one to part with the land for widening the road in which event as rightly contended by the learned Standing Counsel the MCH will have to resort to the provisions of the Land Acquisition Act.

In this case, the petitioner has not given his willingness/consent to give advance possession to MCH for the road widening project. Needless to mention that Corporation has to initiate action under the provisions of the Land Acquisition Act, 1894. Till then, the petitioner cannot be deprived of his right to enjoy the property.

The Writ Petition with the above observations is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

23.9.2005

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